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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,688	06/16/2005	Luciano Salice	27419/260	4955
7590	06/16/2006		EXAMINER	
Gunnar G Leinberg Nixon Peabody Clinton Square PO Box 31051 Rochester, NY 14603-1051				WILLIAMS, MARK A
		ART UNIT		PAPER NUMBER
		3676		
DATE MAILED: 06/16/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/539,688	LUCIANO	
	<b>Examiner</b> Mark A. Williams	<b>Art Unit</b> 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 16 June 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-5 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/16/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 13-14, “the plan layout of which forms...” is not fully understood in the context of the claimed invention.

In claim 2, “essentially” renders the claim indefinite.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arakawa et al., US Patent 4,660,871.

An opening and closing latch device, adapted to facilitate closing and opening of a movable part of furniture with respect to the furniture, comprising a container 2 defining an internal cavity with at least one open side and comprising a sliding guide, characterized in that it also comprises a sliding element (3, 24), placed in the sliding guide and comprising a hook 26 at a first end, suitable to catch a hooking element integral with said movable part, elastic means 4, placed between the sliding element and the container, so that the elastic means exert an elastic force on the sliding element suitable to make it slide, a track 6 placed on one side of the sliding element defining a cam path and, as best understood, the plan layout of which forms a closed geometrical figure, tappet means 7, integral with the sliding guide, suitable to travel along the cam path, so as to define a number of positions of the sliding element, corresponding to a release position, a lock position and two intermediate opening and closing positions of said movable part, and in that the sliding guide is inclined on at least a part thereof at 5 of an angle with respect to the direction along which a closing and opening movement takes place between the movable part and the furniture. The container comprises an insert 8 at least a part 37 of which is partially triangular in shape, one side

of which defines a side of the sliding guide. The track is provided on the side of the sliding guide constituted by said insert 8a. The container comprises a cover forming one of the sides of the cavity, and a base 9 with inherent connection means joining the cover to the base.

Arakawa discloses the claimed invention except (1) the track being placed on one side of the sliding guide, and tappet means integral with the sliding element, suitable to travel along the cam path, as claimed, and (2) explicit teaching of the container comprising a cover forming one of the sides of the cavity, and a base with connection means joining the cover to the base, as claimed.

Regarding (1), such a modification constitutes a reversal of parts and are considered functionally and structurally equivalent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device in this way, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Regarding (2) it would have been an obvious matter of design choice to make the different portions of the device of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of

unexpected results. *In re Dailey et al.*, 149 USPQ 47. Such a modification is not critical to the design and would have produced no unexpected results. One reason for making such a modification may be to allow for a different process of assembly.

***Allowable Subject Matter***

5. Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Williams  
6/12/06



BRIAN E. GLESSNER  
SUPERVISORY PATENT EXAMINER